IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1762 of 1984

with

FIRST APPEAL No 1763 of 1984

with

FIRST APPEAL No 1764 of 1984

with

FIRST APPEAL No 1765 of 1984

with

X-OBJECTION No 124 of 2002

in

FIRST APPEAL No 1765 of 1984

with

X-OBJECTION No 125 of 2002

in

FIRST APPEAL No 1762 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD CORPN.

Versus

JAISHRIBA AJITSINH GOHIL

Appearance:

1. First Appeal No. 1762 of 1984

MR MD PANDYA for Petitioner No. 1

MR JR NANAVATI for Respondent No. 1-4

DELETED for Respondent No. 5

CORAM : MR.JUSTICE B.J.SHETHNA

and

MR.JUSTICE KUNDAN SINGH

Date of decision: 03/12/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

#. All these appeals along with cross-objections filed in aforesaid two first appeal Nos.1762 and 1765 of 1984 are disposed of by this common judgment and order as they are arising out of the impugned common judgment and award dated 30.4.1984 passed by M.A.C.T. (Main), Bhavnagar in M.A.C.P. Nos.83, 84, 86 and 154 of 1982.

#. First Appeal No.1762/84 with cross objection No.125/02 are arising out of the claim petition No.86/82 filed by original claimant-Jayshriba, widow of Ajit Singh Gohil and three minor children. They claimed Rs.5,00,000/= by way of compensation on the death of deceased-Ajit Singh, who died in accident, which took place on 2.10.1981 at 13.00 a.m. near Navagam, between Sihor and Bhavnagar. However, the learned Tribunal awarded in all Rs.3,00,000/= by way of compensation. Thus, learned Tribunal partly allowed the Claim Petition

No.86/82. This has been challenged by the appellant-Corporation in First Appeal No.1762/84. The respondents-claimants filed cross objections claiming Rs.2,00,000/= which was not awarded to them by the learned Tribunal. First Appeal No.1763/84 is arising out of the Claim Petition No.83/82 which is filed by the claimant-Kiritsinhji Gohil, brother of deceased Ajit Singh for the damages caused to the scooter. They have claimed Rs.15,000/= for the damage caused to his scooter before the learned Tribunal. However, learned Tribunal awarded only Rs.10,000/= which has been challenged by the appellant-Corporation by way of the First Appeal No.1763/84. No cross objections are filed by the respondent-claimant-Kiritsinhji Gohil in this First Appeal.

#. First Appeal No.1764/84 is arising out of the Claim Petition No.84/82 filed by the respondents-claimants Manubha aged 70 and Induba Manubha aged 65, parents of deceased-Ajit Singh claimed compensation of Rs.30,000/=. However, they were awarded Rs.29,000/=. The respondents-claimants were satisfied with the same. But the same is challenged by the appellant-Corporation by way of First Appeal No.1764/84.

#. First Appeal No.1765/84 is arising out of Claim Petition No.154/82 filed by respondent-Ashokkumar Hiralal aged 23. He was pillion rider, who received personal injuries during the accident. He claimed Rs.1,35,000/= before the Tribunal but the learned Tribunal awarded only Rs.57,980/=. The appellant-Corporation has challenged the same by way of First Appeal No.1765/84, therefore, the respondent-claimant had filed cross objections No.124/02 and claimed remaining amount at Rs.77,020/=.

#. Learned counsel Ms.Maya Desai appearing for the appellant-Corporation in all these matters vehemently submitted that in the instant case, the learned Tribunal committed grave error in holding that the driver of the bus was absolutely negligent for the accident. She submitted that the manner in which the accident took place the learned Tribunal ought to have at least attributed 30% negligence to the scooter driver, deceased-Ajit Singh. In support of her submission Ms.Desai has taken us through the oral as well as documentary evidence as well as reasons recorded by the learned Judge on this point. Having carefully gone through the entire evidence on record as well as reasons assailed by the learned Judge in its impugned order in para 7 of the judgment and award, we are of the clear opinion that while arriving at the conclusion that the

accident took place because of the sole negligence of bus driver, the learned Tribunal has not committed any error, which calls for the interference by us in these appeals.

#. This brings us to the question of quantum.

#. Claim Petition No.83/82 was filed by claimant Kiritsinhji Gohil owner of the scooter, which was substantially damaged in the accident. He claimed Rs.15,000/=, but the learned Tribunal awarded Rs.10,000/=. Considering the reasons assigned by the learned Tribunal in its judgment and the extensive damage caused to the scooter, we are of the considered opinion that while awarding Rs.10,000/= learned Tribunal has not committed any error, which calls for the interference of this court in First Appeal. Apart from that the amount of Rs.10,000/= awarded to the respondent claimant cannot be said to be more, therefore, considering the smallness of the amount involved in this appeal we would not like to interfere with the award passed by the learned Tribunal. For the above reasons, the First Appeal No.1763/84 is required to be dismissed.

#. We will now consider First Appeal No.1764/84 which was filed by Gohil Manubha Becharji and Induba Manubha, parents of Ajit Singh. Learned Tribunal, on appreciation of oral as well as documentary evidence, awarded Rs.29,000/= in all to both of them. Considering the facts and circumstances of the case, we are of the clear opinion that deceased-Ajit Singh must be maintaining his parents aged 70 and 65 respectively and for that if the learned Tribunal awarded in all Rs.29,000/= to them, then the said amount being reasonable we would not like to interfere in the appeal. Hence, First Appeal No.1764/84 is also required to be dismissed.

#. This brings us to First Appeal No.1765/84 filed by injured Ashokkumar Hiralal Raval aged 23. At the time of accident he was sitting on scooter as pillion rider. Considering the injuries received by him and the actual loss as well as future loss of income, the learned Tribunal awarded in all Rs.57,980/=, which in our considered opinion cannot be said to be exorbitant. When the learned Tribunal has awarded reasonable amount of Rs.57,980/= in all to the respondent-claimant Ashokkumar Harilal Raval, we would not like to interfere with it in the appeal. Once we come to the conclusion that the amount awarded by the learned Tribunal is reasonable, then there is no question of allowing the cross-objections filed by the respondent-claimant for remaining amount of Rs.77,020/= filed in First Appeal

No.1565/84. Accordingly, cross objection filed by respondent claimant devoid of any merits and is required to be dismissed. In that view of the matter, Ms.Desai was not in a position to seriously challenge the award passed by the learned Tribunal and First Appeal Nos.1763, 1764 and 1765 of 1984. However, she has strongly argued First Appeal No.1762/82 filed against M.A.C.P. No.86/82 by the claimants, who are widow and minors of deceased-Ajit Singh. Ms.Desai vehemently submitted that the learned Tribunal has wrongly awarded Rs.3,00,000/=. She submits that on facts of this case such an amount is exorbitant, therefore, this court should at least partly allow the appeal and reduce the amount to Rs.1,50,000/= in all. In support her contention, Ms.Desai took us through the relevant oral as well as documentary evidence on record and the finding recorded by the learned Tribunal in its impugned judgment and award. However, from the evidence and the reasons assigned by the learned Tribunal in its judgment and award, it is clear that the deceased-Ajit Singh was getting salary of Rs.2,331.50 for which necessary certificates were issued by the competent authority. He was working in Gujarat Electricity Board. He was 38 years, at the time of accident. He was serving as Deputy Engineer at the time of accident and he has been awarded multiplier of 15. In spite of this the learned Tribunal has thought it fit to award multiplier of 15. Under the circumstances on the death of deceased Ajit Singh, the learned Tribunal, on appreciation of evidence on record come to the conclusion that annual utility of the deceased would come to Rs.1,800/= p.m., meaning thereby Rs.21,650/= p.a., applying multiplier of 15, learned Tribunal came to the conclusion that the legal heir of the deceased-Ajit Singh would be entitled for Rs.3,24,000/= by way of prospective economic loss. Adding conventional amount of Rs.5,000/=, the learned Tribunal held that they would be entitled for Rs.3,29,000/=, out of that the learned Tribunal awarded Rs.29,000/= to the appellants-claimants of Claim Petition No.154/82. Thus, the learned tribunal awarded Rs.3,29,000/= in all to the claimants. The said amount can never be said to be on higher side. Therefore, First Appeal No.1762/84 filed by the appellant-Corporation is required to be dismissed. Once we come to the conclusion that the amount of Rs.3,29,000/=, in all, awarded by learned Tribunal to the claimants, which is inclusive of Rs.3,00,000/= to the claimants of Claim Petition No.86/82 is quite reasonable, then there is no question of allowing Cross Objection No.125/02 filed by the respondents-claimants as legal heirs of deceased-Ajit Singh claiming Rs.2,00,000/=. Accordingly, the same are required to be dismissed.

##. In view of the above discussion, all these first appeal Nos.1762, 1763, 1764 and 1765 of 1984 fail and are hereby dismissed. Similarly, cross objection Nos.124/02 filed in First Appeal No.1765/84 and Cross Objection No.125/02 filed in First Appeal No.1762/84 are also hereby dismissed. Considering peculiar facts and circumstances of the case, there shall be no order as to costs in all these appeals and cross objections.

(B.J.Shethna, J.)

(Kundan Singh, J.)

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